

A regular meeting of the Board of Aldermen was held Tuesday, September 25, 2012, at 7:30 p.m. in the Aldermanic Chamber.

President Brian S. McCarthy presided; City Clerk Paul R. Bergeron recorded.

Prayer was offered by City Clerk Paul R. Bergeron; Alderman Sheehan led in the Pledge to the Flag.

President McCarthy

Before I ask the Clerk to take the roll, Alderman Dowd and Alderman Tabacsko are participating by telephone and under the terms of the state law that allows them to do that, they need to explain why they can't attend, if they can hear us, and who they are with, if anyone.

Alderman Dowd and Alderman Tabacsko stated the reason they could not attend, confirmed that they could hear the proceedings and stated who was present with them.

President McCarthy

Acknowledged that those present could hear Alderman Dowd and Alderman Tabacsko as well.

The roll call was taken with 13 members of the Board of Aldermen present; Alderman Dowd and Alderman Tabacsko were not in attendance but participated in the meeting via telecommunication, Alderman Vitale arrived after roll call at 7:35 p.m.

Her Honor Mayor Donnalee Lozeau and Deputy Corporation Counsel Stephen M. Bennett were also in attendance.

President McCarthy

Before we begin I am going to recognize Alderman Wilshire to make a motion so we can accept procedural motions without the roll call vote.

**MOTION BY ALDERMAN WILSHIRE THAT THE RULES BE SO FAR SUSPENDED AS TO ALLOW FOR THE ACCEPTANCE OF PROCEDURAL ACTIONS WITHOUT OBJECTION**

*A Viva Voce Roll Call was taken, which resulted as follows:*

Yea: Alderman Wilshire, Alderman Dowd, Alderman Melizzi-Golja, Alderman Chasse, Alderman Caron, Alderman Moriarty, Alderman Donchess, Alderman Tabacsko, Alderman Sheehan Alderman Deane, Alderman Craffey, Alderman Cookson, Alderman Pressly, Alderman McCarthy	14
Nay:	0

**MOTION CARRIED**

REMARKS BY THE MAYOR

This evening I would begin my remarks by sending out congratulations to both our former Fire Marshal Rick Wood and a current Fire Fighter by the name of Bill Campbell. Some of you may have noticed the story in the paper this week – they were both recognized by the Fire Services and Emergency Medical Services organization on the State level. Our former Fire Marshal, Marshal Wood, was recognized with the Aubrey Robinson Fire Prevention Award for outstanding service and dedication and Fire Fighter Bill Campbell actually received a Class 1 Medal of Valor for his work in beginning the 9/11 remembrance here in the State of New Hampshire.

The second item that I would like to speak about tonight is R-12-70, it's on your agenda tonight for final passage with a positive recommendation of the Budget Committee. It is the legislation that comes in every September 1<sup>st</sup> and then looks to be passed before the end of September, which sets our amount of unassigned fund balance to be used towards the tax rate. The good news here is that we're maintaining at almost a 12% amount in our unassigned fund balance so it grew by another \$400,000 this year. Very important, especially when we look at what might be coming in the year ahead. Our best estimate right now is that you'll see a tax rate of about 2.5% that for our average \$250,000 home in our city, is about \$130 a year, about \$11 month. I believe that one of the things that we are responsible for here in addition to protecting the tax payer's dollars, is to not put things off in a way that would allow us to not increase taxes but find ourselves diminishing services. We have been very fortunate in this city to be able to keep a tax rate reasonable each year and in one year no tax rate, but still providing services while we're dealing with the loss of revenues over the past few years. As a matter of fact, I will be putting together another financial snapshot to do a review with folks, hopefully, in the next month or so, talking about where we've been and where we are and what our expectations are moving forward, what some of the challenges might be.

The next item that comes as no surprise that I'd like to speak about tonight is R-12-20 relative to purchasing the three parcels of land on West Hollis Street that directly abut the city's almost 300 acre landfill. I would begin by just sharing a timeline with you. I signed a Purchase and Sale on February 14, 2012. The first reading came into the Board of Aldermen on March 13<sup>th</sup> and March 28<sup>th</sup> it went to the Infrastructure Committee. Lots of discussion and it was tabled. April 4<sup>th</sup> again to the Committee on Infrastructure and a motion to refer to the Board of Public Works on April 4<sup>th</sup> again discussion and tabled in committee. April 11<sup>th</sup> it was still on the agenda in the Infrastructure Committee but no discussion took place that evening. April 12<sup>th</sup> the Nashua City Planning Board gave it a favorable recommendation. On April 19<sup>th</sup> the Board of Public Works gave it a favorable recommendation. On April 25<sup>th</sup> the Committee on Infrastructure again took it up and voted to indefinitely postpone. On May 1<sup>st</sup> the Capital Improvement Committee recommended an A2 rating. On May 3<sup>rd</sup> the Nashua Planning Board again took it up and it moved to amend the Fiscal 12 and Fiscal 13 Capital Improvement Program for the purchase of the land adjacent to the landfill and that motion passed. On May 8<sup>th</sup> the second reading came to the Board of Aldermen and was tabled. On September 12<sup>th</sup> it was removed from the table, significant amount of discussion, and of course as you all recall it was moved for definite action on September 25<sup>th</sup> and it is on your agenda for tonight. That is a pretty long history, long tail associated with this piece of legislation. Each time I've had the opportunity to talk about that legislation, I talk about it in the context of an investment for today and for tomorrow for the city, about long term planning and vision, about things that you can potentially do today and things that you might be able to do later. You know, it's funny, I think some of you have heard me use the phrase, I'm the queen of the country called no good deed goes unpunished. And, with that I mean in this instance, yet again, because I was forthright and talked about many discussions that had taken place over the years regarding a consolidation of the Public Works facility, somehow it took on a life of its own that that was what the intention was. I never brought it in nor have I ever said to anybody, it is my intention that we consolidate the Department of Public Works at that location. Now, I've check all the minutes because I do get a little chatty from time to time but what I've done is I've answered direct questions and I've been forthright in telling people years ago, long before I was mayor, there was discussion surrounding a consolidation but I told the Infrastructure Committee and others when they've asked, not done the work on that yet. Not looked at our current facilities, not done the mathematics on our costs or running our current facilities versus a consolidated facility, don't know if that's the right thing to do or not at this stage. Conversation went around with Conway Ice Arena and swimming pools and lots of things I happen to think it's our responsibility to vision, to think about what's possible, to recognize an investment when we see it. Discussion has come up most recently at the public meeting which I actually didn't include on my list of meetings, there was a meeting last week at Main Dunstable School on this matter yet again. Now, we're talking new questions have come up about how we're doing this, about whether we need appraisals, things like that. I don't think it would ever be the right thing to do to get an appraisal for a piece of property when somebody is willing to take the assessed value or less. Think about what that means to our Assessing Department. They're responsible for \$8.4 billion worth of assessments in this community. In each year, we have people that come in and request abatements, changes that they want to see on their tax rate for whatever reason and they have to be able to stand up and

be able to defend the assessments that they've made. Those are done with the utmost of care. When somebody is willing to sell their property for below assessed value, if we say we need an appraisal that says that there is something wrong with the assessed value that they've been paying taxes on for any number of years. That doesn't seem to make sense to me. It made sense to me to look at the DES paperwork to find out for certain whether there was a problem there and I thought that was a reasonable request and at that Board of Aldermen meeting, when we took it up in May, that's how we left it. DES work came in, myself and Director Fauteux reached out to DES, asked them if we could get that information prior to the September Board meeting and, if possible, for the Friday packet going out and they were able to do that. That wasn't easy but they really worked hard to accommodate us.

This is a circumstance of understanding what's best for this city and why it makes sense to have this investment, whether it's a buffer, whether it's about the people that live there, that lived there before the landfill came in, whether it's about the neighborhood, and more importantly whether it's about commercialization of West Hollis Street, there are many reasons for some of us to support this and there are some reasons for people to not support it. I think I've made it pretty clear where I come down on this. I think it's the right thing to do. I think it's the right time to do it and contrary to some of the drama surrounding, you know, whether it's a loop hole or whether it's just a way around a process or the spending cap or anything else, that's simply is just not the case. It simply is not the case. We can buy land in this city and transfer funds for eight votes without requiring funds for bonds anytime. Those are appropriated dollars, they were slated to be capital dollars, when we took those dollars out for Pennichuck the first \$500,000 came out of CERF and the other \$500,00 came from money that was explained to you that we intended to put it into CERF so capital money being used for capital purchase. I think it makes good sense and I think from a business perspective, which many of you will sometimes ask us to look at some of the things we do in a business manner, as I've told you there's a time and a place for that. But this certainly is that time and this certainly is that place because if you have a business that is running an operation that takes up almost 300 acres of land and you have three direct parcels that abut your entrance and you have an opportunity to buy them at a reduced rate, you should be looking at doing that and thinking long and hard about it.

I would end my remarks this evening, sending out our thoughts to the Flynn family. Some of you may recall, today is former Alderman Flynn's birthday and I'm sure his family has him in their thoughts today. I thought it would be appropriate for us to do the same.

I appreciate your kind attention this evening.

RESPONSE TO REMARKS OF THE MAYOR – None

RECOGNITION PERIOD – None

READING MINUTES OF PREVIOUS MEETING

*There being no objection, President McCarthy declared the minutes of the Board of Aldermen meeting of September 12, 2012, accepted, placed on file and the reading suspended.*

COMMUNICATIONS

*There being no objection, President McCarthy declared that all communications be read by title only.*

From: Dorothy Clarke, Deputy Corporation Counsel

Re: Voting Requirements for R-12-20 and the Proposed Amended Version of R-12-20  
(Purchasing Land on West Hollis Street)

*There being no objection, President McCarthy declared the communication accepted and placed on file.*

From: Mayor Donnalee Lozeau  
Re: Contract Award for Groundwater Testing

**MOTION BY ALDERMAN WILSHIRE TO ACCEPT, PLACE ON FILE AND AWARD THE CONTRACT TO CHEMSERVE IN THE AMOUNT OF \$105,948**

ON THE QUESTION

Alderman Deane

I brought up my concerns about this contract at the Finance Committee meeting. This was a company that had this contract for quite some time. There were underbid. They lost the contract. Another firm came in and replaced them. Now they've come back and they've low bid again but now there was a memo brought in under suspension to extend it from the initial one year to three years. I think with the way the market is and the volatility of some of these companies and some of the work that they are looking for, I don't think we should be locking this in for a three-year timeframe. I think it should go out year-to-year to make sure we're getting the best value for our dollar so I will not be supporting this.

Alderman Wilshire

The amendment that came in was because when the RFP went out it said three years. When the Purchasing Manager put it together, he had written it down as one year. That was what the amendment was about. It wasn't that it was changed.

Alderman Deane

I stand corrected. What I meant to say was I'm not going to support a three-year contract. Alderman Wilshire is correct. Thank you.

*A Viva Voce Roll Call was taken, which resulted as follows:*

Yea:	Alderman Wilshire, Alderman Dowd, Alderman Melizzi-Golja, Alderman Chasse, Alderman Caron, Alderman Donchess, Alderman Tabacsko, Alderman Sheehan, Alderman Vitale, Alderman McCarthy	10
Nay:	Alderman Moriarty, Alderman Deane, Alderman Craffey, Alderman Cookson, Alderman Pressly	5

**MOTION CARRIED**

*There being no objection, President McCarthy suspended the rules to allow for the introduction of communications received after the agenda was prepared.*

From: Alderman-at-Large David W. Deane and Alderman-at-Large Jim Donchess  
Re: Expenditure of \$650,000 to buy Parcels near the Landfill (R-12-20)

*There being no objection, President McCarthy accepted the communication and placed it on file.*

From: Dorothy Clarke, Deputy Corporation Counsel  
Re: Funding for R-12-20 (Purchasing Land on West Hollis Street)

*There being no objection, President McCarthy accepted the communication and placed it on file.*

PERIOD FOR PUBLIC COMMENT RELATIVE TO ITEMS EXPECTED TO BE ACTED UPON THIS EVENING

Stacie Laughton, 243 Main Street, #33, Nashua

I'm speaking tonight in opposition to resolution R-12-20. As I've said in the past, I've been against this for numerous reasons. I understand it has good points. It has the points of possibly being a good neighbor, possibly creating a buffer. My concern at this time is we went through a lengthy budget process, money is being tossed here, there, everywhere and we need to get our spending under control. We need to get our spending under control on numerous different government levels but right now we're discussing this issue R-12-20. I recommend to the Board at this time we vote it down. Maybe we could take a look at it in the future. I know the sentiment has been said, if we don't buy now at this price we'll never have it at this price again. We don't know that. You never know what the future holds. We can't just sit there and judge the future today. The future hasn't happened yet. Right now, as the way it stands financially is I believe we should not be spending this kind of money and I recommend to the Board right now that we vote it down. Thank you.

Bill Toomey, 9 Pacific Boulevard, Nashua

Good evening. I live in Ward 5. I also live right around the corner from the Nashua landfill. I am here tonight to support Mayor Lozeau's proposal to buy the three parcels of land in front of the landfill. I also have petitions with signatures of a few hundred people that have signed the petition also in favor of this proposal and I would like to submit it tonight as part of the meeting. Thank you very much

Paula Johnson, 15 Westborn Drive, Nashua

Good evening Members of the Board of Alderman. I am here in regards to R-12-20. I oppose it for many reasons. I was at the neighborhood meeting last week and there were some interesting facts brought up. One interesting fact was by Alderman in Ward 3, that basically we need to compensate them because their land abuts the landfill. Well if we do it for one, then we need to do it for them all on compensation. Somebody can come back and say my property abuts the wetland, my property abuts something else, but we need to compensate, so that's not a good enough reason why. There was also somebody in Ward 5 that brought up that the city had purchased part of their property. That's a good question. Did the city purchase part of their property back in the sixties? I'd like to get an answer to that and I think the citizens of the city really need to get an answer to that also. I feel there is a lot of unanswered questions. Like I said that night, \$650,000 for that piece of land and we're now talking we heard at that meeting that there could be a change in the entrance of the landfill because people don't know where they're voting where they get into the landfill. I don't believe 100% the DES report because on that house there has been a lot of auto body work done, there are a lot of solvents, also with a garage there are a lot of solvents, gas, oil. So I do question the DES report and maybe DES needs to come in and explain exactly how much testing and where, how much of the ground testing. I looked at the report, it's too technical for me to understand, I can just read the summary. I think we need more than just a summary of understanding on that that land. Then the question becomes when we buy the land, there's a house, there's a garage and there's another house. How much is it going to cost to take down those buildings? What are we going to do with the land? That's future. That that really isn't future, that's now because the buildings are going to come down sooner or later and it could be down in 2013. Those numbers, those figures have to be factored into \$650,000 when you buy something. You buy a house, you know there's going to be some renovations. You have to calculate that in when you build a house or when you buy a house. I think just saying we're going to vote \$650,000 to buy this property at this point in time, I don't think we the people, I don't care about a petition, if I knew we were going to do petitions I would have gotten more signatures this week. We need those questions answered, \$650,000 plus how much is the real value its going to cost us of this land. Thank you.

Wendy Brown, 2 Baltimore Road, Nashua

As a resident and a taxpayer, I want to thank Alderman Cookson for his extremely informative meeting on September the 19<sup>th</sup>. I believe it was needed and I appreciate your efforts. I would also like to thank Mayor Lozeau and I would like to thank every alderman who attended. And now that I see the work that you do, I don't know how any of you have time to sleep. It made me appreciate your dedication to your position and to the City. I was happy to hear that the city has no intention in purchasing the three parcels of land for the purpose of building garages, a carwash and office space on West Hollis Street, next to the landfill. I'm sure I annoyed a couple of people that evening when I asked to define buffer. If we are to believe that the city is going to spend \$650,000 of taxpayers money to demolish buildings and plant trees, there were too many ideas that evening that were tossed around for a possibility for that property, ideas that were discussed years ago and that had been put to rest. I believe that because of that, a number of residents who attended that meeting and heard this for the first time, left that meeting with the wrong idea. I believe there was more to this. The residents of this city and especially the Alderman should be giving the entire plan, a breakdown of expenses and possible tax increase prior to making a decision or vote for this issue. If consolidating the DPW is not the intent, then \$650,000 is a lot of money to build a buffer. I didn't hear anyone say they're having trouble getting in and out of the landfill. I know that other monies are being transferred from other funds for the purchase of this property. It's still a large amount of money and it makes me uneasy and it should make you uneasy too. For no other reason, that is now brought down to the decision that will only take eight votes and it makes me wonder how many what ifs if anyone is going to be able to make a conscious decision. I oppose this issue. If you are voting today, I believe you are voting for too many unknowns, without a firm plan, a budget or an end cost. If you chose to move forward with this, at the very least, please visit the idea of putting restrictions in place for the purpose of the land and please wait for a clear vision. Thank you.

Pamela Mannone, 18 Baltimore Road, Nashua

I'm just following up on some of the concerns that Wendy brought up. I am really flabbergasted that an amount of \$650,000 is going to be spent for land with no vision statement. As Wendy said, planting trees a buffer for \$650,000, I think we could use that money in other areas, for example schools, etc, but not for this land purchase. Thank you.

Michael Pedersen, 11 Delaware Road, Nashua

I have a few comments on some of the points discussed regarding R-12-20. There has been talk of the purchase of this land could serve as a buffer. I'm thinking what does that really mean? The land purchase being on one side of the landfill and the Trestle Brook is completely on the other side. It seemed like such a weak argument. Buffer sounds great but its way over there and I can't see how it's going to improve our neighborhood by having this so-called buffer. Also they said, one idea, which is just an idea but its not going to happen for sure is consolidating the municipal garage down there. I'm thinking, if you follow that through why would you want to consolidate the garage two miles away from the highway, so that every vehicle that comes and goes and there are plenty of them, that's an addition of four miles each time; two coming and two going just to get to the highway. I think the municipal garage should be centrally located in the city where it is now. Also, a gentleman came with a petition from residents in the neighborhood. I think that's very commendable, but I'm thinking if you presented this issue with all the ideas available and took a pole of residents who live near that landfill it would be overwhelmingly against this idea of purchasing this land which could really just serve as a down payment for future development of the municipal garage, which scares the heck out of everyone. Then the Mayor eluded to, well we could have a second sheet of ice down by the municipal garage, how many people in Nashua are going to use that second sheet of ice, and that is going to be a reason to relocate the municipal garage in our backyard, weak argument as far as I'm concerned. Then there was talk of Alderman Sheehan about making the residents whole and I'm thinking as Paula Johnson said, making the residents whole, everybody who has some kind of issue related to abutting city land can suddenly start raising their hand and saying we need to be made whole also. That opens up a door that you really don't want to open. Also, if we make the decision to buy this land, which I certainly hope we don't, at

the meeting at the Main Dunstable School, someone talked about adding stipulations regarding the purchase of the land that it would not be used for a consolidated municipal garage or some other future building development. So, if we could have those stipulations put in, that would be a good thing. Otherwise, this would just be a down payment of a small amount less than \$1 million that would open the door to multi-million dollar future bill for the taxpayers of Nashua. Thank you for your time.

Colleen Nauss, 15 East Dunstable Road, Nashua

I won't take your time repeating everything that's just been said, but I too oppose it, for mainly the reason that the city has a lot of beautiful projects going on, that its been working on and we need to catch up on, I feel, the bills that are already there but will be coming due. The police and school departments are in need of immediate help. The schools and the police department have federal recommendations that they are not able to meet on their budgets or federal standards, but not one school is meeting the federal no child left behind. I'm not sure if you saw the June 11<sup>th</sup> paper, which also indicated that in both the Nashua High Schools, almost 80% of the kids, which is a large percentage, the kids that are graduating from Nashua High Schools both need to take at least one remedial class, at least, to get into the community college. I want to say that a lot of the Nashua schools are doing great jobs as well. They have great AP classes. My daughter also graduated d from there. She made highest honors at UNH this past year. They are graduating some really great programs from Nashua. The problem, in my opinion, is that the children that need the help are not getting it. I've been in this Nashua school system with my three children for 20 years. There are definitely things that wouldn't cost a lot of money that are being ignored. I know that some people have made comments, just go to the school board, but maybe the Mayor can do something. I know it was discussed that some of the money go over to the school board or some of the money go over to the police. But the police need it, the city has more crime, the schools need it and I just feel like its more money being spent on the city where we need to catch up on the other bills and look at our priorities in the City is what I want to say. Thank you very m much.

Robert Sullivan, 12 Stoneybrook Road, Nashua

What I'd like to first discuss is R-12-20. Thank you Alderman Cookson for calling the meeting. Many of us felt that the legislation was being pushed through and its very important that citizens take a look and understand what's coming before especially when you're going to be spending \$650,000. I took three-and-a-half pages of notes and I summarized them during that September 25<sup>th</sup> meeting. Seven individuals indicated that a plan be defined before the land is purchased. Out of those seven, four indicated that they didn't mind that the land be purchased but there was a definite message at that meeting that a plan be known, whatever the plan is before the purchase of that land. Another reason it came up was to make, I believe it's the Duclos family, whole, the family that lives by the landfill who sold some land in the past. I empathize with that. Then I began thinking if you're going to make someone whole that something inappropriate happened. We don't know what happened. I'm not able to show, were these people forced to sell to sell the land, did they get fair value for their land, etc., etc. It would be interesting, I think Alderman Pressly brought it up, it would be interesting to understand the history of that. I do empathize if that family was forced to sell land, if that's a reason, then that's a reason. A lady in real estate indicated that they thought that the cost was too high and there was a clear message that the people at that meeting didn't want to see any development on that land regardless of what it is, commercial or city development. It was suggested that the legislation be freeing so that the land could only be utilized as a buffer zone. Regardless of what reason you want to buy it, that takes care of that. Lets make sure that we do proper due diligence with these pieces of legislation that come before the Board of Alderman, because frankly, a lot of it comes across that its being pushed through quickly and many of you folks know what I'm talking about. One other resolution that I'd like to speak about that I didn't think I was going to speak about is R-12-70. I picked up on what May Lozeau indicated when she spoke about that. Mayor Lozeau indicated that it would be a 2.5% increase in the tax rate. I believe the 2.5% is associated with property tax bills. Now maybe they're both being increased by 2.5%, but Mayor, you indicated that the tax rate was going to be increased by 2.5%. I know that the property tax bill, it was mentioned several times of being increased 2.5%. Thank you very much.

Geoff Daly, 48 Walden Pond Drive, Nashua

First off, Mr. President, the website needs to be revised. The Board of Alderman meeting is now shown until you click on MORE. Retirement 1 and 1 above it showed a lot of people, if they knew there was a Board of Alderman meeting tonight should have been the first item on the calendar. It is not until you press more. I would like someone, through you Mr. President, to make sure that such mistakes are not made. The twelfth meeting is showing, your ninth of October is showing, but tonight meeting is not showing and people don't know to press on the word, MORE, we would never have know it. First off, I'd like to thank Alderman Cookson's arrangement the other night. I think it was extremely informative. I learned a lot from everybody. I find tonight, also, the two members from council a little misleading and I would like, possibly the Mayor and the President to explain on page 2 of her memorandum, which is on your attachment, the remaining \$500,000 to purchase is proposed to come from the Pennichuck fund. When you see the other memorandum attached, its much, much shorter. It doesn't go into detail. There seems to be a difference. Again, I come back also, we need this clarification and I mentioned the other night at the public meeting. The wording of this legislation and the reason why so many people are up in arms as well, is Division of Public Works. I think we've got to look at the way legislation is worded. If it had been for the benefit of the City of Nashua, we may have given it a little better thought. But because so much is being banded around and about, moving Public Works, and one gentleman the other night said, you're moving two miles down the road and he pointed out what's the wear and tear and the cost to the city? Those are things that are very important. We just spent I don't know how many millions of dollars on a whole load of new CNG garbage trucks and we're saving money there. If we ever move the Public Works down there, are we going to do that to all their trucks, convert them to CNG so we can save money? It may be in the plan, but where is the plan. I also believe that a lot of people, and I know the Mayor mentioned this the other night that legislation and the legal side of land purchasing has changed dramatically over the years. When Tedeske wanted to put their store in, the courts probably would have said no to them. But today I understand from the Mayor pointed out the other night, they probably wouldn't say no. If you get commercial development there, people opposite may sell their house to somebody and you get more commercial development and what do we end up with, another Amherst Street. I know the majority of people who live in that world, don't want to see West Hollis Street developed as a commercial area. It should remain as is. As the speaker said, you have the power to put in place restrictions if you purchase this land, but it remains an offer in perpetuity, just like we're doing with the Pennichuck easements, they are in perpetuity. So nobody can go to courts and say we want to develop this land. If you put the restrictions in now, they can stay. I think with that, we do need an explanation and clarification of the two memorandums, especially there is so much difference in their explanations of this \$500,000. Thank you.

PETITIONS – None

NOMINATIONS, APPOINTMENTS AND ELECTIONS – None

REPORTS OF COMMITTEE

Budget Review Committee .....	09/18/12
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There being no objection, President McCarthy declared the report of the September 18, 2012 Budget Review Committee accepted and placed on file.

Finance Committee .....	09/05/12
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There being no objection, President McCarthy declared the report of the September 5, 2012 Finance Committee accepted and placed on file.



Finance Committee ..... 09/19/12

There being no objection, President McCarthy declared the report of the September 19, 2012 Finance Committee accepted and placed on file.

Human Affairs Committee ..... 09/06/12

There being no objection, President McCarthy declared the report of the September 6, 2012 Human Affairs Committee accepted and placed on file.

WRITTEN REPORTS FROM LIAISONS – None

CONFIRMATION OF MAYOR'S APPOINTMENTS – None

UNFINISHED BUSINESS – RESOLUTIONS

**R-12-20**

Endorsers: Mayor Donnalee Lozeau  
Alderman Michael J. Tabacsko  
Alderman Kathy Vitale  
Alderman Richard A. Dowd  
Alderman Mary Ann Melizzi-Golja  
Alderman-at-Large Brian S. McCarthy

**APPROPRIATING \$650,000 FOR THE PURCHASE OF LAND FOR THE DIVISION  
OF PUBLIC WORKS AT 836, 844, AND 848 WEST HOLLIS STREET (MAP D,  
LOTS 84, 85, AND 86) AND AUTHORIZING THE ACQUISITION OF THAT PROPERTY**

Given its fourth reading;

ON THE QUESTION

President McCarthy

I would like to remind the Board that on the floor is the motion to amend R-12-20 in its entirety with the copy provided with the agenda passed out at the Board meeting on September 12, 2012.

Alderman Moriarty

Parliamentary inquiry. Are we able to make another motion to amend before we vote on the existing motion to amend?

President McCarthy

You can make a single motion to amend the amendment, yes.

Alderman Cookson

I was trying to pull up the original analysis of Resolution 12-20. In that original analysis it identifies that the \$500,000 is a supplemental appropriation. Does that differ in the amended version? Is the \$500,000 still a supplemental appropriation?

President McCarthy

I don't know if the text differs. However, at least what is anticipated I think in both versions is actually not a supplemental appropriation. I believe it was termed a supplemental appropriation in the original one because it was being transferred into an account which did not exist.

Alderman Cookson

Can I confirm that through counsel please.

Attorney Bennett

That's correct.

Alderman Cookson

So the analysis, it stated that the \$500,000 was a supplemental appropriation was only because it was going into an account that did not exist and now that the amendment is going into an account that currently exists. And it exists in the 2012 budget?

Attorney Bennett

Yes.

Alderman Cookson

Account 600-96 exists in the 2012 budget and therefore it's no longer a supplemental appropriation. Thank you.

*A Viva Voce Roll Call was taken on the motion to amend, which resulted as follows:*

Yea:	Alderman Wilshire, Alderman Dowd, Alderman Melizzi-Golja, Alderman Caron, Alderman Tabacsko, Alderman Sheehan Alderman Vitale, Alderman Craffey, Alderman McCarthy	9
Nay:	Alderman Chasse, Alderman Moriarty, Alderman Donchess, Alderman Deane, Alderman Cookson, Alderman Pressly	6

**MOTION CARRIED**

**MOTION BY ALDERMAN TABACSKO FOR FINAL PASSAGE OF R-12-20 AS AMENDED**

ON THE QUESTION

Alderman Donchess

I defer to Alderman Deane.

Alderman Deane

Thank you. I don't think there is much drama as was called out earlier in the Mayor's comments about this. I look at this in many different ways. Are we going to have funds like this just floating around to spend on whatever we care do with that aren't found in the budget and give the staff something to watch in the office. I

understand the initial intent and I look at this money as this is bonded money and it's a reimbursement. When we accept money from someone, which we did from the Pennichuck, its considered a revenue, in my book and Attorney Clarke said its not a revenue account. . I understand that over the years that transfers were made from funds that were appropriated, so we appropriated money, and we transferred the money and it was used for some of the cost of the acquisition. The only way to transfer an appropriation is back the appropriation up. To back the appropriation up, we need a form of revenue. Basically, more often than not is tax revenue. Its called a reimbursement, but its still a revenue coming back to the City. I appreciate her spelling our NRO5-130H. I put that legislation in a number of years ago when I would bring legislation in front of a board and the division directors and department heads would look at the account numbers and just run out and feverishly spend it down, so by the time the legislation got acted upon, it didn't matter because the money was gone anyways. We are well beyond the fiscal year. It just seems like the books have been kept open. We went back and if we go back to capitol improvements and we can push it into 2012 and not have it in 2013, thereby requiring 10 votes. I just think that is the wrong way to do business. As for the land, I'm not necessarily against the land purchase, I'm not necessarily against listening to what the Mayor has to offer for her vision, or the city's vision, or the Division of Public Work's vision or whatever what might go on down there or what the residents would like down there, whether the entrance needs to be addressed or whether we need buffer property or all the reasons that were give, I have big problems with financing. I didn't support the transfer back in the CERF. It just seems like we've appropriated money, we've already spent it, its coming back to us as a revenue through reimbursement and what was sited in Attorney Clarke's memo today, that we got this afternoon. This all happened prior to fiscal year ending. We're beyond the fiscal year. We went through the incumbencies, we went through the escrows, the tax rate, the money is falling into unassigned fund balance and the tax rate resolution was dealt with. I understand why a \$150,000 left out there and the argument can be, well you obstructionist, as we were called in an email, stopped this (I've got an email that refers to some of us as obstructionists) and that's why this extended out like that. As I've been told by many people in the community, you people have to come up for a little bit of air. I think we should take a hard look at what we're doing here. The property has been on the market for quite some time. I never questioned the integrity of the assessing department, I just look at what's happening across the country to property values and what the real value of the property is, the percentage of tax dollars needed to be raised, the tax rate would just go up if the property value went down because that's what it takes to operate the city. That's what happened when we had that big re-eval, everybody's tax rate went way down, but their assessment went way up. Thank you Mr. President.

#### Alderman Donchess

I first wanted to address the issue that the fact that this expenditure made in fiscal 2013, which began on July 1 of this year, causes the city to go over the cap and because we're within less than \$650,000 of the cap right now and therefore, requires a vote of 10 members of the Board of Alderman to override the cap. Why do I say that? First of all, the issue of interpreting laws and law in general is not a black art. There is nothing secret about it. What you do, you begin by if you're applying a charter or a statute, you begin by reading the plain language of the Charter statute that governs. Then you apply the plain language of that statute to the situation at hand. The Charter sets forth a cap in Sections 56C and 56D of the Charter. Nowhere within any of those sections is any of the procedure that is being offered is being followed right now, authorized as a way to evade the fact that in a certain fiscal year more than the level of expenditure allowed under the cap is going to be made. The language of the sections is very simple and it does not say that you say that expenditures made in 2013, we can act as though those are being made in 2012. It does not say that the accounting procedures that may otherwise apply override the simpler provision of the cap. It does not say that the Chief Financial Officer can override by holding books open. Not of that is provided. If you look at the simple language and the simple approach of the cap, this is 2013, tonight if there is a vote we will be voting to appropriate \$650,000 and under the simple provisions of the cap the cap is exceeded and that requires a 10 vote majority. Now the sections that Miss Clarke relies upon, but let me for one moment let me discuss again the area of the law, sometimes there are ambiguities and all the time lawyers disagree about what statutes mean and how they should be applied, what case law means, etc. What normally happens and the reason why there are lawsuits and the like, is that a lawyer on one side of the case reads the thing and takes the position of his or her client, and then

the lawyer of the other side takes the position of his or her client. In this case, its clear where the administration wants this to go and although I'm sure the Legal Department does its best job to try to deal with conflicting mandates, it answers to the Mayor and just maybe just representing the Mayor's point of view and is advancing that cause. If you look at Miss Clarke's memo she relies on another section of the Charter, Section 53 to say that, Board of Alderman with a majority can make a transfer. But that section first says accept as otherwise provided in the charter. I would say the cap sits within, except as otherwise provided in the Charter, and the Charter sections were enacted after 53, so one I think could logically see that the cap overrides and is an exception to this particular provision. Beyond that it says that the Board of Alderman may transfer any unencumbered appropriation. There is no unencumbered appropriation at this point. The appropriation or accounts are the 500 and 600 accounts. The \$500,000 is not in any of those accounts and therefore does not fit within the section. The \$500,000 is within a 700 account which is normally a bonded account and represents funds that have come to the city, not funds that the city appropriated within its appropriation accounts and never expended. So, even the section that Attorney Clarke is relying on in my view, does not apply here and does not authorize that the cap be overridden. Therefore, Mr. Chair, I ask for your ruling as to whether the cap is going to be exceeded and whether a 10 vote majority is required.

President McCarthy

I do not believe that it is for a very simple reason. Cap applies to appropriations within a budget year. What we're talking about and I disagree with you and I believe you're incorrect on the nature of the money that is being spent. It is money that was reimbursed to the city and is in an account where it is appropriated. As evidenced of the fact that it is not a new appropriation, but rather money that was already ours and was appropriated, I would like to give an analogy using the world's greatest experts on revenue. If I get my paychecks for the year and I write them down on my W-2 and send them off to the IRS to pay my taxes, I loan \$1,000 out of that to my brother and he pays me back, I do not have to pay additional taxes on the \$1,000 he repaid me. If money that was repaid out money that is loaned to a purpose or revenue, the IRS would know and they would tax us on it. I think that's simple analogy and I think it applies the same way. This is money that we had appropriated for one purpose, we transferred it to use temporarily with the intent that it would be returned from Pennichuck. The bonds are not entangled in it because the bonds were issued on behalf of Pennichuck corporation. While the city holds them, they are Pennichuck's responsibility to pay and one of the things Pennichuck was responsible for doing was reimbursing that approximately \$1 million to the City. It is my belief that that is money in the 2012 budget that was reimbursed per the plan by the PUC, it is there and I believe it will take eight votes to pass this and that will be my ruling when the vote is taken.

Alderman Donchess

Well, you would at least agree with me that it is now Fiscal 2013 and not Fiscal 2012.

President McCarthy

A great many of our expenses that take place during the days that are marked on the calendar as FY-2013 take place out of the 2012 budget.

Alderman Donchess

You will agree with me that the cap doesn't specifically authorize that this procedure be followed?

President McCarthy

Cap regards the appropriations in the budget, not what is done with the money after it is appropriated.

Alderman Donchess

Thank you Mr. Chairman.

Alderman Pressly

Thank you. I have a question a little bit unrelated to this just based on what you just said, Mr. President. If I understand it correctly, over the next 10 years or so, we are going to get some other repayment of money from Pennichuck. Are you going to deal with that in the same way you are doing with this?

President McCarthy

As we had discussed on several occasions, that is entirely different. That is money that would be reimbursed through the City and I believe that is actually revenue because it will come in individual years.

Alderman Pressly

Just to comment further on that, however it is money that the city did spend over the period of acquiring Pennichuck. That did come from our funds. So if your theory is to be consistent, the same thing applies. It was sitting money that was expended over the eminent domain period, the 10-year period?

President McCarthy

It was money that was expended. This was not expended, this was essentially loaned with the intent of it being repaid within the same fiscal year when the bonds were let.

Alderman Pressly

So a loan is not an expenditure?

President McCarthy

No.

Alderman Pressly

Now I would like to get to the subject. The meeting the other night in Ward 5 I found very interesting. One thing that came up that was news to me, there was a suggestion by a citizen that the people selling the land, in fact, had sold the land when the landfill was built. They, in fact, had benefited from the sale of their land for that purpose. Now why is that important? The case has been made and I was very sympathetic to it, that these poor people, they lived there before the landfill and therefore, they should be compensated. That sort of pulled at my heartstrings a bit too. But now, I find out that they were an intrlcal part of the creation of the landfill and did, in fact benefit. However, I don't know that for sure. There were two questions that came up, I thought we would get answers to. One was the history of the landfill, where did all the land in the landfill, where did that come from and was it in fact the same people that now claim they can't sell their houses. The other question came up and a realtor in the audience said, where are the appraisals and I thought there was an answer that there had been appraisals. Now it apparently turns out there had been no appraisals. I don't know how the price was arrived at quite frankly. In today's market I have enormous respect for our assessing department. They do a great job. However, I think all the realtors that I have spoken with, and I speak with many, almost all properties across the region, not just in Nashua are selling well below the assessed value. In order to change that, they would have to reassess the whole community which has not taken place. So, I don't think the argument that this is a fair price based on the assessed value. I don't think that is accurate. I think its irresponsible not to get an independent commercial appraisal, only because it is a unique property and I have

no idea how that would price out in the market place. The other thing that impressed me was the word that came up repeatedly was plan, not to have a plan. I'm thinking, this sounds familiar. We've been asking for a plan for Main Street also. So maybe this is a trend that is taking place in the city right now. The other thing that came up in that meeting that really struck me was the lack of trust. I felt that the people that spoke did not trust the City of Nashua and that disturbed me a great deal. I am very unhappy about this changing the plans and the rules. I think if I know my colleagues fairly well, I think you easily have the votes to pass this. It's disturbing that it comes back with a surprise change in the rules. It seems to be a case, that if you don't get what you want, you can find a way to manipulate the rules and the system in order to get what you want. I think surprises like that are not good public policy. I think its been a masterful, political manipulation way this has been handled and I don't like that. We've talked about the cap and we've also talked about restrictions. I had thought that there would be someone in the group that would come forth with some language for restriction and since I have not prepared it, I would like to amend the motion to place restrictions into the law that will keep this purchase of this land as a permanent buffer when nothing can be built, unless somebody else has language that's been cleared.

President McCarthy

Attorney Bennett, did you want to share the information you had about the Duclos property.

Alderman Pressly

Is this the history we asked for?

President McCarthy

Yes.

Attorney Bennett

At the time the landfill was being assembled, there was a number of properties that were used to assemble the landfill. The lots that we're talking about, the Duclos family has lived there, from my understanding since the eighties. The land then was owned in the name of L&D Realty, land 15 acres in which the front part was where the residence is now located. Their properties and three others were taken under the threat of eminent domain. In fact, I've agreed to resolutions made by the Board of Alderman to appropriate the money to pay for those particular parcels.

President McCarthy

Alderman Donchess and Moriarty please pay attention to the explanation of the information.

Attorney Bennett

The price paid for that is \$27,000 for 14 acres. Then that front part was not part of the 14. It had been part of probably 16 acres. It is divided leaving 14 for the landfill and the balance was on the street where the houses are.

Alderman Pressly

Was it eminent domain, because my understanding of eminent domain by law have to pay market value.

President McCarthy

It was under threat of eminent domain. The way the process is normally done is that you send them a letter that says, we'd like to buy your property and have a few days to negotiate with us before we get an appraisal done and take it.

Alderman Pressly

Was that the fair market price at that time? Can you determine that?

Attorney Bennett

I can assume it was as close to fair market as they could come up with. Its just not the City saying, you're going to pay this amount and that's it. If somebody contests the amount, then there is a process through the Board of Tax and Land Appeals. Even then they are competing appraisals and the board makes a decision. I'm not sure it went that far, but I do have the resolution where the city did approve it for that exact purpose to take \$197 to pay for four parcels including that 14 acre parcel.

Alderman Pressly

Can you tell us if there were appraisals today on the property?

Attorney Bennett

I'm not aware of any. My understanding is probably the same as yours which is because appraisals were done and I understand maybe it was going to be sold for commercial purposes and there may have been an appraisal there. I haven't seen an appraisal. They don't necessarily give out appraisals that they have done.

Alderman Pressly

The point that was made that night was to get an independent appraisal, so I guess there was no independent appraisal on the property for the price that we've offered. Is that correct?

President McCarthy

Mayor Lozeau do you want to address that?

Mayor Lozeau

The city did not do an appraisal currently. The commercial appraisal was done by a company that entered into a former purchase and sale with them. I don't have access to that. I have no idea if the company would be willing to distribute it.

Alderman Pressly

Then the answer is no, the city has not had an independent appraisal done, correct? That's the question, taking something that somebody did a couple of years ago for commercial use is not the value of it.

Mayor Lozeau

At the neighborhood meeting the question was asked if appraisals had been done on the property. My response was that the commercial company that had a purchase and sale on it did an appraisal. From my perspective, what happened for us when we were looking at the land, was that our assessment office, which includes a certified appraiser and something that we do for \$8.4 billion worth of property and assess that

property at a price. It is not the same thing if individuals try to buy each other's property and sadly during these economic times, sometimes people get it for less than people owe on property. That happens more often than I think anybody would like. The city is not somebody that should, in essence, try to get a citizen to take less than its assessed value that we've been receiving compensation on. Since I've been here and before my arrival here, we've not gotten appraisals on property when people were willing to sell it at assessed or below assessed value.

#### Alderman Pressly

So the answer to that is that the city has not acquired or requested an independent appraisal on the property. The answer to that is no, they have not. That's what I want to hear. Thank you.

#### Alderman Moriarty

It is my opinion, that it is poor financial practice to purchase something without a specific reason to purchase it and even though there is at least one alderman who specifically told me that it would be okay to purchase property and then figure out what the purpose is after the fact. I would believe that anybody in here, if you had to write the check out of your own pocket, I think you would think long and hard about what you're writing that check for. Just the fact that it is city tax dollars, it is easier to spend the money without a specific purpose. Putting that aside, one thing that I learned from the meeting, thank you Alderman Cookson for hosting that, and allowing me to use my scribbling handwriting as clerk, it seemed to be that we're the only consistent intent to purchase that the residents and the people in general supported was that of maintaining the residential nature of that neighborhood. Basically the top three endorsers of this legislation themselves said that. Alderman Tabacsko, he is welcome to speak for himself after the fact, but I think he would agree with me and I remind everybody that he was very clear to say that the main thing is that they would like to maintain the residential nature of that neighborhood. As a tree hugger, I think that is something that I could possibly support and at least try to justify to my constituents. Other cities do that regularly so that is not that unusual. It is my opinion that we should not attempt to spend \$10 million to relocate that gigantic public works garage, which is presently down near the stadium and the ice rink. The idea of purchasing this land, and being a step towards that sounds like a bad idea to me. But, fortunately, the top three endorsers of this legislation had very clearly stated that, that's not the reason for this purchase. I know Alderman Tabacsko made that clear, that that has been sort of a distraction in our discussion. We don't know where the \$10 million came from. We don't know whose idea it was and even Alderman McCarthy made a humorous comment that I think was put in the paper that the idea of putting the monorail from North to South High Schools, he may have stated that at one point, that doesn't necessarily mean that if somebody says it means it is going to be the specific reason for doing something. I think the Mayor herself might have even said that, usage is not the specific intent. So, if the endorsers themselves agree that the purchase is intended to maintain the residential nature and if the three primary endorsers themselves suggest that the idea of consolidating the public works on this land at a large expense was not the intent, well, then let's just go ahead and make that clear for everybody. I would like to make a motion to amend R-12-20 to that affect, which I think Alderman Pressly was moving towards.

I had a version that I wrote up that sounds more like a statement of intent. My colleague, Alderman Donchess, has a version which is written up which is much more of a legally binding statement. I will defer to Alderman Donchess ultimately I think the same thing. I'll read what I was going to say and then I'll let him read what he was going to say. I was going to say, I move that we amend R-12-20 such that the City shall not develop properties nor construct buildings on the properties in a manner which does not conform to the residential zoning regulations of the surrounding neighborhood. After some thought, I believe it's possible that if some point down the road, we can always argue and do something otherwise, but at least, we here if we agree to vote for it have made our statements in public of truth.



Alderman Donchess

Well, I rather like Alderman Moriarty's language, but as we think about this purchase, at least I heard and will review or revisit that history in a second, but in the beginning the idea seemed to be mid-term plan is to consolidate the public works garage. Now we are hearing that the purpose is to preserve the neighborhood. As I look at the situation, Mr. President, there are three possibilities. Number one, the parcel is left as it is. Number two, the city buys the parcel and dedicates it to a buffer and a realignment of the access to the landfill. Number three, the city buys it and builds ultimately a public works garage, offices, etc. consolidated facility there. In terms of the impact on the neighborhood, the best result would be to buy the parcels and dedicate this to a buffer zone and realignment of access. The second best result would be to leave things as they are. The worst result would be to buy this and have the public works facilities consolidated there. The reason I say this, Mr. President, is when we went to the neighborhood meeting the other night you pointed out I think correctly, that there is some risk now that the owner of these parcels that we're attempting to buy, were they to bring a lawsuit to establish a commercial zone there, that there is always a risk that we could lose that case. Mr. Chair, I don't agree with you to the extent that you expressed that was an extreme risk, but we don't disagree that there is some risk, we only disagree maybe over the degree. Once the City, which its intent in this scenario is attempting to enforce the residential nature of that zone, once the City moves in there and establishes on the front parcels, this is if the city, once and if the City moves in there and establishes these residential parcels as basically an industrial commercial use with a major facility, in other words if Grace Management moved in there and put in a garbage hauling facility that would open the entire strip to commercial development. If a construction firm moved a bunch of dump trucks into a garage on that facility then it would open this to commercial development because neighbors would say, the use is established we should be able to do the same thing. The City is talking about doing both, moving a garbage facility and the other operations of the public works division into that facility. At least now we somewhat have the high ground. Then, the City is in the position of saying, we built an industrial commercial garbage construction facility on the street but no one else can do that. We are attempting to enforce the residential nature of this neighborhood. I think in that case we would have a very poor chance of winning. The worst result would be for us to move the public works garage in there. Therefore, I support Alderman Moriarty's attempt to make it clear that that is not our intention.

Maybe it isn't right now, but in terms of the history of this, this is not an idea that just was hatched or just imagined. I look at the newspaper reporting on this and I refer the Aldermen and the public to the Telegraph's story of March 29<sup>th</sup>, I refer the Aldermen and the public to the Telegraph story of May 7, 2012, I refer them to the minutes which back up these newspaper stories, I refer them to the report of Wendy Brown who came in and told us what happened at the Trestle Brook facility. There are so many statements here, I'm not going to try to read them all, but the first article starts out with, the Mayor expressing that in her perfect vision the acquired parcels could be the location for the City's future consolidated public works offices and garage. That intention or that plan or that idea or that concept or that goal, I don't know what you want to call it, but it gets repeated over and over and over again. In the second article it says that in the next few years or perhaps the next decade the City hopes to use the land for consolidating four public works facilities on the site. It says that the Mayor estimates that this could cost \$15 million. Later on, and I'm not "making all the quotes", but later on it says that the Mayor has said that the cost analysis for bringing Nashua's Public Work's Department together is still underway, but should be complete in a few months. I accept the idea that, okay, right now there is no plan or whatever was being discussed at that time has been abandon. The idea that this never was discussed as a realistic possibility, probability, a realistic approach that the City would seriously consider taking, the idea that was never discussed is inaccurate. Therefore, those of us who are concerned among the Aldermen and the public, I think have good reason for being concerned because this has been expressed very clearly in the past. I do not support the purchase of the land, especially if there is not a prohibition from establishing the public works garage there. I think at the meeting we attended, Mr. President, the consensus was, well if we are going bind the site, if we are going to restrict the site so that no public works garage would go there, then I think the consensus was okay, well the money is worth spending. I was listening to the people that were there. If that really is the plan, I would seriously reconsider the idea of the purchase. I've spoken long enough, but I support Alderman Moriarty's approach and I plan to vote for his amendment.

Alderman Craffey

I have been supporting this amendment from the very beginning. I think that buying the property is a good thing. I think we should leave it alone and I would definitely support Alderman Moriarty's amendment for it to pass. I would support it either way. I would support this amendment entirely and I will support it going forward. I think it's a good idea to buy, I don't know where the idea of the public works garage came out, but that is not for this board to decide or any board in the very near future. I think it's a good idea, it's a good neighbor thing, we owe to the people to prevent it from becoming another Amherst Street and therefore I will support your amendment as it goes forward. Thank you.

Alderman Vitale

I obviously support the purchase of the land. When I think of purchasing it and immediately making restrictions that you cannot do anything with it, I think is very short-sighted on our part. Some of the best known developers, investors, people that own property, that have purchased property and years later they do something with the property, but they had the foresight to buy the property because they know that property would be able to have another use down the road, not a current use, but another use down the road. I believe this property falls into that category that it is a smart purchase for the City. It abuts other City property. I think that we can buy it. We can then look at various things that we can do with it. It might be that we did nothing with it. Cities purchase park land. Even park land you do something with down the road, we put in sidewalks, we put in lighting to make them safer. Whatever you do I think it is something that we purchase, we sit back, we look at it, we find out what the best future use of the property is. It might be something that we discuss during each of our terms. It might be something that is discussed in the term of an alderman 10 years from now. But I do believe because it abuts current city property and it's a smart purchase, I don't believe we have to have a plan in its entirety, but we know down the road we will have the ability to do something. There are many things that could be done that have been discussed in various meetings, in public discussion, whatever. None of those should be determined and set in gold tonight. It is something that we should explore and find out what's best for our city in future use, not something that's going to happen today, tomorrow, probably not in the next year and to make a future plan, that we really have no plans backed is not smart. I support purchasing the property, sitting looking at it and finding out in proper discussions what we do with the land after that.

Alderman Deane

I had some questions. Can you give the chair up, I'd like to have a little discussion with you about some stuff?

President McCarthy

I want to get through with this discussion.

Alderman Deane

I understand the amendment and there's a large stated denial about the use of the property. I would find it ingenuous not to support it myself, not speaking of anyone else in the room, but telling the public that we are not going to develop it, we are not going to use it for all these other purposes, that the tactics associated with Tedesky and commercial development, and this should probably follow suit with what we are trying to propel from the use of the area to maintain the neighborhood environment that we have been telling what people have been speaking of and I believe that's what Alderman Moriarty's amendment will do.

President McCarthy

You had a specific question that you wanted to ask of me.

Alderman Deane

Yes I do. It has to do with finances.

President McCarthy

So its not germane to the amendment then.

Alderman Deane

No its not sir.

President McCarthy

Whoever was on the phone wanted to be recognized?

Alderman Dowd

I might be in favor of the amendment if its more clearly stated. We lost some of the translation in all of the dialogue. I want it restated. The other thing is I don't think I would support amendment that says we won't touch the land, because I would like to see us putting the land up, for one, get rid of the houses that are on there. Its been mentioned that the Fire Department could use those as test cases to do fire fighting practice and take them down fairly inexpensively and then we can make the land seem more natural. The other thing is I wouldn't want to preclude the ability to make a second access to the landfill even it's a dirt road, or emergency access. So I guess I would want to re-hear the amendment in a clear state and if the things that I just talked about were included, I would be in perhaps in favor.

President McCarthy

Alderman Moriarty could you restate the amendment?

Alderman Moriarty

I move that R-12-20 be amended such that it says, the City shall not develop the properties nor construct buildings on the properties in a manner which does not conform to the residential zoning regulations of the surrounding neighborhood.

**MOTION BY ALDERMAN MORIARTY TO AMEND R-12-20 BY ADDING "THE CITY SHALL NOT DEVELOP THE PROPERTIES NOR CONSTRUCT BUILDINGS ON THE PROPERTIES IN A MANNER WHICH DOES NOT CONFORM TO THE RESIDENTIAL ZONING REGULATIONS OF THE SURROUNDING NEIGHBORHOOD"**

ON THE QUESTION

Alderman Deane

Who has control of that property? Would it be under the jurisdiction of the Board of Public Works once the lot lines are moved to include it with the Four Hill site as it exists today?

President McCarthy

That's a very complex question. There is no requirement that we merge the lot lines with the Four Hills landfill property if we choose not to do so.

Alderman Deane

Who has that authority to merge them? Is that done through resolution?

President McCarthy

This Board will probably have to introduce something to say to do that.

Alderman Deane

Say that's done and it passes and then the authority and whatever else is going to be done down there, it would be presented to our land use boards by the Board of Public Works? But it would be the Board of Public Works who have authority over it?

President McCarthy

I think what has to happen is we need to assign the land through the Board of Public Works for their use and then they would decide, after we did that, whether to merge it with the landfill property or not.

Alderman Pressly

I like that language. I think it gives the City and Board of Public Works some discretion. It seems to me, the most important thing for that neighborhood is that the frontage remain undeveloped and so they would have to determine the extent of the frontage and how far back it would go to protect it visually from the road, so when you are driving by you don't see commercial usage, you would see natural usage, just natural trees I presume. I think that language is really positive and it might accomplish just about everything. It tells me that if the Board of Public Works wants to make some changes, they could, as long as it were in keeping and gave the appearance of a neighborhood. They could widen the entry if they wanted to as long as it still appeared to be noncommercial and a friendly frontage for a residential neighborhood. I think that is very creative.

President McCarthy

Alderman Moriarty, I assume its your intent that that amendment not block the use of the property through access putting roadways through them.

Alderman Moriarty

Crack their lots. There are residences that have driveways and gravel road.

Alderman Tabacsko

I like the concept, but I am having a little bit of trouble with this because of the laws of unintended consequences. With all the best intentions we try to do something to preserve that residential character, which I am definitely in favor of. However, given the fact that we are trying to do this on the fly, might I suggest that we come back and visit this in form of further legislation. But have a chance to be vented by and get some debate and make sure that we don't inadvertently preclude ourselves from doing something that we would like to do that would still protect that residential character. I think in trying to push it through tonight is something that I am going to have trouble supporting and I would like us to give a little more thought to that. I don't think

there is any chance that we are going to do anything here in the next year even. So there is a timeframe that we could work with that and come up with something that would address those concerns and do it properly. Thank you.

Alderman Sheehan

I would just like to agree with Alderman Tabacsko. I think he stated well what my same concerns were.

Alderman Deane

Well if that's the case I move to table R-12-020

**MOTION BY ALDERMAN DEANE TO TABLE R-12-20**

*A Viva Voce Roll Call was taken on the motion to table which resulted as follows:*

Yea: Alderman Melizzi-Golja, Alderman Chasse, Alderman Caron,  
Alderman Moriarty, Alderman Donchess, Alderman Deane,  
Alderman Cookson, Alderman Pressly, 8

Nay: Alderman Wilshire, Alderman Dowd, Alderman Tabacsko  
Alderman Sheehan, Alderman Vitale, Alderman Craffey  
Alderman McCarthy 7

**MOTION CARRIED**

**R-12-60**

Endorsers: Mayor Donnalee Lozeau  
Alderman-at-Large Lori Wilshire  
Alderman Diane Sheehan  
Alderman Mary Ann Melizzi-Golja  
Alderman June M. Caron  
Alderman Richard A. Dowd  
Alderman Arthur T. Craffey, Jr.  
Alderman-at-Large Barbara Pressly

**RELATIVE TO THE ACCEPTANCE AND APPROPRIATION OF \$400,000 FROM THE UNITED STATES DEPARTMENT OF JUSTICE INTO PUBLIC HEALTH AND COMMUNITY SERVICES GRANT ACTIVITY – “SAFE HAVENS - SUPERVISED VISITATION AND SAFE EXCHANGE GRANT PROGRAM”**

Given its second reading;

**MOTION BY ALDERMAN WILSHIRE FOR FINAL PASSAGE OF R-12-60**

*A Viva Voce Roll Call was taken which resulted as follows:*

Yea: Alderman Wilshire, Alderman Dowd, Alderman Melizzi-Golja,  
Alderman Chasse, Alderman Caron, Alderman Moriarty,  
Alderman Donchess, Alderman Tabacsko, Alderman Sheehan  
Alderman Deane, Alderman Vitale, Alderman Craffey,  
Alderman Cookson, Alderman Pressly, Alderman McCarthy 15

Nay: 0

**MOTION CARRIED**

Resolution R-12-60 declared duly adopted.

**R-12-61**

Endorsers: Mayor Donnalee Lozeau  
Alderman-at-Large Lori Wilshire  
Alderman Diane Sheehan  
Alderman Richard A. Dowd  
Alderman Mary Ann Melizzi-Golja  
Alderman June M. Caron  
Alderman-at-Large Jim Donchess  
Alderman Kathy Vitale  
Alderman Arthur T. Craffey, Jr.  
Alderman-at-Large Barbara Pressly

**RELATIVE TO THE ACCEPTANCE AND APPROPRIATION OF \$52,083 FROM THE UNITED STATES DEPARTMENT OF JUSTICE INTO POLICE GRANT ACTIVITY - "2012 JUSTICE ASSISTANCE GRANT (MULTI-JURISDICTIONAL)"**

Given its second reading;

**MOTION BY ALDERMAN SHEEHAN FOR FINAL PASSAGE OF R-12-61**

*A Viva Voce Roll Call was taken which resulted as follows:*

Yea: Alderman Wilshire, Alderman Dowd, Alderman Melizzi-Golja,  
Alderman Chasse, Alderman Caron, Alderman Moriarty,  
Alderman Donchess, Alderman Tabacsko, Alderman Sheehan  
Alderman Deane, Alderman Vitale, Alderman Craffey,  
Alderman Cookson, Alderman Pressly, Alderman McCarthy 15

Nay: 0

**MOTION CARRIED**

Resolution R-12-61 declared duly adopted.

**R-12-68**

Endorsers: Mayor Donnalee Lozeau  
Alderman Michael J. Tabacsko  
Alderman-at-Large Lori Wilshire  
Alderman Richard A. Dowd

**APPROVING THE COST ITEMS OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE BOARD OF PUBLIC WORKS OF THE CITY OF NASHUA, NEW HAMPSHIRE AND LOCAL 365 OF THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME), AFL-CIO FROM JULY 1, 2011 THROUGH JUNE 30, 2014 AND AUTHORIZING RELATED TRANSFERS**

Given its second reading;

**MOTION BY ALDERMAN WILSHIRE FOR FINAL PASSAGE OF R-12-68**

*A Viva Voce Roll Call was taken which resulted as follows:*

Yea: Alderman Wilshire, Alderman Dowd, Alderman Melizzi-Golja,  
Alderman Chasse, Alderman Caron, Alderman Moriarty,  
Alderman Donchess, Alderman Tabacsko, Alderman Sheehan  
Alderman Deane, Alderman Vitale, Alderman Craffey,  
Alderman Cookson, Alderman Pressly, Alderman McCarthy 15

Nay: 0

**MOTION CARRIED**

Resolution R-12-68 declared duly adopted.

**R-12-70**

Endorser: Mayor Donnalee Lozeau

**ESTABLISHING THE USE OF FUND BALANCE FOR TAX RATE**

Given its second reading;

**MOTION BY ALDERMAN MELIZZI-GOLJA FOR FINAL PASSAGE OF R-12-70**

ON THE QUESTION

Alderman Donchess

Yes, Mr. Chair I do plan to vote for this, but I wanted to make clear what I have said in the budget committee, which is that, in general, I believe that the City should maintain the 10% called for in the ordinances in terms of the fund balance, but not more than that. The reason that I say that in general, is that if we retain 12%, we are holding 2% several million dollars of taxpayer's money in a manner that I don't think is necessary. But, this year because we are facing the threat that Superintendent Conrad has emailed us about, about the possibility that we could lose substantial education funding, the so-called adequacy grant next year, I think we need to maintain as much flexibility as we can at the moment. Therefore, despite my general disagreement with the idea of holding more than 10% in this instance, I intend to support it.

*A Viva Voce Roll Call was taken which resulted as follows:*

Yea: Alderman Wilshire, Alderman Dowd, Alderman Melizzi-Golja,  
Alderman Chasse, Alderman Caron, Alderman Moriarty,  
Alderman Donchess, Alderman Tabacsko, Alderman Sheehan  
Alderman Deane, Alderman Vitale, Alderman Craffey,  
Alderman Cookson, Alderman Pressly, Alderman McCarthy 15

Nay: 0

**MOTION CARRIES**

Resolution R-12-70 declared duly adopted.

UNFINISHED BUSINESS – ORDINANCES - None

NEW BUSINESS – RESOLUTIONS

**R-12-73**

Endorser: Mayor Donnalee Lozeau  
Alderman-at-Large Lori Wilshire  
Alderman Diane Sheehan  
Alderman Kathy Vitale  
Alderman Arthur T. Craffey, Jr.  
Alderman Mary Ann Melizzi-Golja  
Alderman June M. Caron  
Alderman Richard A. Dowd  
Alderman Michael J. Tabacsko  
Alderman-at-Large Barbara Pressly

**AUTHORIZING THE FILING OF APPLICATIONS AND EXECUTION OF GRANT AGREEMENTS  
WITH THE U.S. DEPARTMENT OF TRANSPORTATION FOR GRANTS UNDER THE URBAN  
MASS TRANSPORTATION ACT OF 1964, AS AMENDED, FOR FISCAL YEARS 2013 AND 2014**

Given its first reading; assigned to the HUMAN AFFAIRS COMMITTEE by President McCarthy

**R-12-74**

Endorser: Alderman Richard A. Dowd  
Alderman Michael J. Tabacsko  
Alderman Mary Ann Melizzi-Golja  
Alderman June M. Caron

**RELATIVE TO THE TRANSFER OF \$85,000 FROM DEPARTMENT #194 “CONTINGENCY”,  
ACCOUNT #70112 “CONTINGENCY, EDUCATIONAL PRIORITIES” INTO VARIOUS SCHOOL  
ACCOUNTS**

Given its first reading; assigned to the BUDGET REVIEW COMMITTEE by President McCarthy

**R-12-75**

Endorser: Alderman-at-Large David W. Deane

**RELATIVE TO THE TRANSFER AND REDUCTION OF \$86,711 FROM PUBLIC WORKS  
FULL-TIME PAYROLL ACCOUNTS**

Given its first reading; assigned to the BUDGET REVIEW COMMITTEE and the BOARD OF PUBLIC WORKS  
by President McCarthy

NEW BUSINESS – ORDINANCES

**O-12-24**

Endorser: Alderman Diane Sheehan  
Alderman-at-Large Barbara Pressly

**REGARDING CHANGES TO SIGNS IN THE HISTORIC DISTRICT**

Given its first reading;

President McCarthy

If there's no objection O-12-24 will be assigned to the Planning & Economic Development Committee and the  
Nashua City Planning Board and a public hearing will be scheduled for Monday, November 5, 2012 at 7:00  
p.m. in the Aldermanic Chamber.

Alderman Deane

What was the date again, Mr. President?



President McCarthy

November 5.

Alderman Deane

November 5 is a Monday?

President McCarthy

Ya. Normally it would be on Tuesday but Tuesday is an Election Day

Alderman Cookson

I'm just curious why that particular ordinance wouldn't go to Infrastructure

President McCarthy

Because it is a change to the zoning regulations.

Alderman Donchess

I haven't looked at the schedule, Mr. Chair, but the night of the election eve, we are looking for everyone to be there if possible. Some people might be involved in the election on one side or the other. You've looked at the schedule, which I haven't, but is it possible to schedule that for a different night?

President McCarthy

I have not looked beyond the fifth.

Alderman Donchess

Thank you.

PERIOD FOR GENERAL PUBLIC COMMENT

Stacie Laughton, 243 Main Street, #33, Nashua

Hello, again. There is something I've been noticing as a frequent pedestrian in the City and numerous other people have noticed it. People bring it to my attention. I'm sure all of you have heard the same thing. Every summer we see construction projects on the roads. Everywhere you turn, you see construction projects. You say Main Street being torn up and I must say, before I get too in deep on that, the work that they're doing is quite nice, but I think the City in a lot of respects when it comes to road work, they are biting off more than they can chew. You have all these projects going on all over the city. You have Main Street being worked on and then it just seems like we're never moving forward, but constantly digging up the same streets and we are constantly in the same predicament. One of the things I was thinking of recently was, if we were to have more focus on one area at a time, we get more done during the season in which we can do the work. Such as, in the summertime is the time of the year when we do a lot of these things because in the wintertime we can't. First, let me just really get into that part of it. The part that I really wanted to get into was that, we had a lane for pedestrian traffic. Constantly that keeps being taken away and it creates an unsafe situation because pedestrians cannot get down Main Street. On Saturday's I do political work, I won't discuss here, but I head up to the top of Main Street and you can walk through this particular area. When you're walking back, trucks were in this area pouring, taking out different material and then it forced us to walk in the street. You don't know the

sidewalk was actually closed until you get right up on top of it. This project has been going on all summer long and it's posed numerous other problems, not just for myself, but for the business owners and what not. It just seems to me as if we could have done this in a different way. We could have dedicated more people to it if they weren't always working in other areas of the City. Other concerns that I have about this also is recently is that Alderman Donchess had mentioned on Facebook about, should we be looking at keeping track of the different cost items associated with it and I think we should because we need to know what guys are doing what, at what particular times because we need to get the projects done and move forward and make sure they are done safely, they're done efficiently, and they're done cost effectively. I think with all the projects we have going on, especially this one on Main Street, there are different things that could be done, different things that could be thought out, there is money to be saved and there is safety issues involved. Those are some things to ponder and think about. Thank you.

Jim Cutter, 86 Palm Street, Nashua

In an open letter to Alderman McCarthy. At the last aldermanic meeting I said the Legal Department has been lying when it comes to us. They have not replied. It must be true. Since I am the one telling the truth, we would like a letter from City Hall informing the Gilbertsons that 1950 and 1970 building permits were approved in error, causing them to be trespassing on Cutter land. If the assessing department has corrected their tax map to agree with the deed, then the building permit file copies should also show Palm Street footage is 51 feet to agree with the deed. The three foot wide strip of our driveway and closeline area, known as curtlage is protected by the fourth amendment of the constitution. Go to Google.com to find the definition of curtlage. Then deeper version of rights under color of law. Title 18 USC, section 242 defined, anyone who violates the constitutional rights of the citizen is committing a federal crime. A federal crime is punishable by fine or imprisonment, for not more than one year or both, which is it? A letter to the Gilbertsons for punishment for committing a federal crime. If you prefer a letter, we would like a copy and please let us know within a week. Sincerely, Jim.

#### REMARKS BY THE MEMBERS OF THE BOARD OF ALDERMEN

##### Alderman Pressly

The Comcast has announced that there are going to be some changes in the channel lineup sometime after October 8<sup>th</sup> and there is a long list of them. Instead of reading them into the record I will give a copy of this to Miss Lovering and ask her to distribute it to you in case you get some telephone calls from constituents, so expect some changes.

##### Alderman Cookson

I begin my statements this evening, by again making reference to what the Mayor stated in her opening comments. Alderman's Flynn's birthday would have been today. I keep his funeral card on my desk just to keep him here. This was actually his desk, so it means a lot to me that he is still with us participating as much as he can. I think he would have had a couple of things to say this evening, especially about both R-12-20 and R-12-70 setting the tax rate. I think Dick was a strong proponent for the taxpayers and the year that Mayor Lozeau mentioned due in on the tax rate was almost zero. You can thank Dick Flynn for that. I did a lot of listening tonight. Last week we did have an information meeting and we had a wonderful turnout. We had approximately 50 people show up to the event out at Main Dunstable Elementary School. Several people, both pro and con came to listen and I thought we had a wonderful conversation that took place that evening. We had 11 Alderman plus the Mayor join us, so again it was a fantastic turnout, fantastic participation and it wasn't just the members of Ward 5 that showed up, there were taxpayers from throughout the city that showed up to express their opinion about R-12-20. Again, in summary what I think we heard that particular evening was, we'd like to know what the plan is. So, this evening with Alderman Moriarty's amendment, I was really surprised that it was tabled, but maybe this will again give us some time to reflect on the purchase of those

three parcels and so we'll just take it one day at a time. I also would like to thank Alderman Moriarty, last Wednesday evening at the information meeting, he captured the notes which I believe everybody received on their desks this evening, the Minutes from that meeting. Again, thank you Alderman Moriarty, I appreciate your thorough capture of thoughts that were expressed that night. Again, it was a good meeting and hopefully we will have the opportunity to have more of those along the way. I guess my biggest concern going into this meeting was that this was initially shared with the Trestle Brook Crime Watch Group. I'm not sure how people knew about that other than the Trestle Brook Crime Watch participants. I don't know if there was a meeting agenda, I don't know how well it was publicized, but R-12-20 certainly affects more people than just Trestle Brook even though they are the closest neighbors. I thought it was a good meeting and I appreciate everyone who came out to it. I thank you for the thoughtful comments and the discourse that took place that evening and look forward to have more opportunities to have meetings like this throughout the city.

#### Alderman Craffey

I did enjoy the conversation tonight. It was nice and I also was surprised that Alderman Moriarty's motion got tabled. Fairmont Crime watch is Thursday night at 6:30 at the Amherst Street School.

#### Alderman Vitale

Each month I hold a coffee for the constituents of Ward 1. It will be next Wednesday, October 3<sup>rd</sup> from 6:00 to 7:00 p.m. at Starbucks on Coliseum Avenue. Those of you that come, I look forward to seeing you. In addition, I'd like to mention a retirement that took place in the City. I would like to recognize Deputy Chief Cronin of the Nashua Fire Department and commend him on his retirement and his 25 years of Service to our Fire Department and to the City. Its always nice that we have a long-term employee that we can recognize and that has dedicated so much of his time and keeps us all safe. Thank you to Deputy Chief Cronin.

#### Alderman Tabacsko

I just wanted to add my congratulations to Deputy Cronin and actually, its been 35 years. I'm sure he would like to get those 10 years for his retirement, a dedicated firefighter and certainly an accomplishment that is worthy of recognition, so congratulations Deputy Cronin.

#### Alderman Donchess

Two brief things. I agree with the people who have already said that the informational meeting was quite good. I'm glad so many people attended. I found the discussion helpful in exploring the possibilities and the issues involved. I too would encourage more meetings like that. On the birthday of Alderman Flynn, I did not know Alderman Flynn other than just meeting him as well as the people who served with him and who are here, but in reference to R-12-70, when I was beginning to think about trying to get involved in city government again, I remember reading in the paper that Alderman Flynn was arguing that we shouldn't be holding so much taxpayers' money. I thought, that's a good idea. I agree with him on that. That is what really got me thinking about trying to reach a slightly difference balance between the need of establishing the city's fiscal soundness, but also returning to the taxpayers, the money that is not necessary to achieve that goal. Whenever that issue comes up, I always think of Alderman Flynn, although I never discussed the issue with him, I was inspired by his remarks in the newspaper.

#### Alderman Caron

There will be a Crime Watch meeting on Thursday, September 27<sup>th</sup> at 6:30 p.m. at the Dunkin Donuts on East Hollis Street. We hope that we get a few more residents out there. Its been working very well. I too would like to congratulate Deputy Chief Cronin. He is a neighbor and friend of ours and he has worked very hard for the last 35 years for the City of Nashua. On another point, concerning this land purchase, I have been struggling with this for weeks. I went out to the site. I read the report. I've listened to the neighbors. There are two

things that I'd like to say, one is, as long as I've worked for the City way back when, back in the early seventies they talked about consolidation of public works. That has been ongoing forever and forever and a day. When they finally moved what they called the barn on East Hollis Street over to Riverside when they built the high school is when they decided to consolidate and they also at that time, consolidated Park/Rec, pulled people back and sent us all to Greeley Park. That's an ongoing process and until there is some defined plans in place, I think we can talk about it all we want, but it shouldn't keep us from moving forward. I sometimes used to say that we're penny wise and pound foolish. We have to respect the neighbors, but the other thing is, if the city doesn't buy the land and I appreciated Alderman's Moriarty's suggestions because that makes you feel a little better about not putting something big there, but if we don't buy that land, will the Duclos's sell it for commercial and we could end up with convenient store, garage, a gas station. Let's face it, it was an auto body shop for a long time. I think we have to look at it in all aspects. I appreciated all the conversation today because it gives me more perspective and something to think about it before we meet again and I appreciate that.

#### Alderman Chasse

Alderman Cookson, I want to congratulate you on that meeting. Unfortunately some of us couldn't make it because the Finance Committee had a meeting that night. As for your secretary who might have to read the notes to me. You should have been a doctor. Anyways after the meeting you can stay after school and you can read it for me. The other thing is, in Saturday's paper, there was an article about the Club National, I don't know if anybody got a chance to see it. Club National was started with a bunch of guys that played hockey and that used to be their hangout, and Club National has come a long way over the last few years. We put on charities. We give about anywhere from \$30,000 to \$60,000 a year to organizations in the City of Nashua and right now we have a new one going for the Nashua Seniors, it will be on December 15<sup>th</sup> at 7:00 p.m. at the Club National and it is going to meat Bingo. If you've never seen meat bingo before it's a lot of fun. The prizes are very good. Its about \$1.00 a game. There are about 16 to 20 games and I am not lying you could win maybe pork roast, and you're going to have a pork roast yay long. Lobsters, they have lobsters maybe 19 pounds, 17 pounds, its really something to see how the game is played. I'd like to see you guys down there. Come join my club. Thank you.

#### Alderman Wilshire

I would like to thank the Telegraph for in-depth coverage of the Bronstein Apartment issue and also thank the Housing Authority for the good job they've done meeting with all their residents and the Mayor being at this meeting, trying to calm everything down and make people feel a little bit more secure about what the future is going to mean for them and I think it was a great event that the Telegraph sponsored. I was also going to bring up the article in the Telegraph that Dean Shaloup finally did on Club National. Club National has been supporting the Children's Home for thirteen years. I think we are up to about \$200,000 in contributions from the Club National, but over the years they have been extremely generous and I 'm glad to see that the Telegraph did something to mention these low key kind of guys over there and gals, but mostly guys and the philanthropy over there is just fabulous. Last night at the Human Affairs Committee we set up an Ad Hoc Committee to make a working group for Ordinance 12-18 establishing procedures for the Review and Comment Commission and we set up three meetings; October 1<sup>st</sup> at 7:00 p.m., October 11<sup>th</sup> and October 22<sup>nd</sup> all at 7:00 p.m. in Room 208.

#### Mayor Lozeau

Thank you, Mr. President, I know its unusual for me to speak at this time, but I wanted to let folks know that the purchase and sale on West Hollis Street expires on Sunday, September 30<sup>th</sup> so I will be calling a special Board of Alderman meeting Thursday night. I just wanted to give you a heads up.

President McCarthy

It appears I was remiss at our last meeting in not wishing the Mayor a happy upcoming birthday. So I will take care of that now. It would be impolite of me to mention how old she is, but it is the second anniversary of when I congratulated her on a milestone birthday.

Committee announcements:

Alderman Cookson

Committee on Infrastructure tomorrow evening, 7:00 p.m. in these chambers.

Alderman Chasse

Monday evening, 10-1, the Personnel Administrative Affairs Committee at 7:00 p.m. in these chambers.

ADJOURNMENT

**MOTION BY ALDERMAN CRAFTY TO ADJOURN**

*A Viva Voce Roll Call was taken, which resulted as follows:*

Yea:	Alderman Wilshire, Alderman Dowd, Alderman Melizzi-Golja, Alderman Chasse, Alderman Caron, Alderman Moriarty, Alderman Donchess, Alderman Tabacsko, Alderman Sheehan Alderman Deane, Alderman Vitale, Alderman Crafty, Alderman Cookson, Alderman Pressly, Alderman McCarthy	15
Nay:		0

**MOTION CARRIED**

The meeting was declared adjourned at 9:40 p.m.

Attest: Paul R. Bergeron, City Clerk

September 23, 2012

Dear President McCarthy and Members of the Board of Aldermen,

We are writing to point out the common sense reality that the expenditure of \$650,000 to buy the parcels near the landfill would cause the FY 2013 budget to exceed the City spending cap under Nashua City Charter Sections 56-c and 56-d.

A decision to spend \$650,000 now in FY 2013 would put the budget over the cap and would require an affirmative vote of 10 members to exceed the cap.

The Charter does not authorize any of the procedures that are being proposed in R-12-20. It seems to us that the simple facts are being ignored in order to evade the requirements of the Charter and to spend the money without a vote to exceed the cap.

Most importantly, we are now in FY 2013, not FY 2012. Therefore, the opinion that the cap would not be exceeded by the expenditure of \$650,000 relies upon the fiction that it is still FY 2012 – yet that fiscal year ended on July 30, 2012, almost 3 months ago. The City Charter does not authorize the City to pretend we are still in the previous fiscal year.

The flow of \$500,000 has been as follows: The City transferred \$500,000 from the Capital Equipment Reserve Fund to Water Supply Acquisition in 2008. A sum of \$500,000 has come back to the City and is being held in a revenue account (revenue received by the City) and not in an account holding unexpended appropriated funds.

The provision of the Charter that the opinion of Atty. Clarke is relying upon does not apply in this situation. Section 53 of the Charter provides that, "After the budget has been adopted..." the Board of Aldermen may transfer an "unencumbered appropriation balance" within a department with 8 votes. Section 53 does not authorize the use of this procedure after the year is over. Also, the \$500,000 is not an "unencumbered appropriation balance" – it is in a revenue account. Finally, Atty. Clarke assumes that the Capital Improvements Committee gave the land purchase an A-2 rating in the FY 2012 budget. In reality, the Capital Improvements Committee gave the land purchase the rating in the FY 2013 budget -- this purchase does not appear in the FY 2012 at all.

We do not believe that the Charter permits the financial contortions which the City is relying on in order to evade the requirement of a 10-vote override of the cap.

We request that the Board of Aldermen adopt a more straightforward approach, and call for a vote to override the cap as is required by the Charter.

David Deane

Jim Donchess



**OFFICE OF CORPORATION COUNSEL  
CITY OF NASHUA**

**MEMORANDUM**

**TO: Board of Aldermen**

**FROM: Dorothy Clarke, Deputy Corporation Counsel**

**DATE: September 25, 2012**

**RE: Funding for R-12-20 (purchasing land on West Hollis Street)**

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This memo was requested to address the funding components of R-12-20 (purchasing three parcels of land on West Hollis Street) and the September 23, 2012 letter from Aldermen Deane and Donchess.

The \$650,000 in funding proposed for the purchase of the three parcels on West Hollis Street would come from two different sources, which will be addressed individually.

\$150,000 is proposed to come from FY2012 general contingency. R-12-20 had its first reading on March 13, 2012 (during FY2012). Once submitted, NRO §5-130, H puts a "hold" on those funds from being expended or transferred while the legislation is pending. Although Fiscal Year 2012 ended on June 30, 2012, the financial services division conducts many FY2012 year-end transactions and account reconciliations during the first few months of FY2013. FY2012 transactions can be completed up until the financial services division officially closes the books for FY2012, which typically happens in the September/October timeframe. The financial services division has stated that if R-12-20 passed at the BOA meeting on September 25, 2012, they could still use the identified FY2012 funds and account for the transfers in FY2012.

Every year the city conducts and finalizes previous fiscal year transactions in the first few months of the next fiscal year. For example, in FY2013, R-12-55 was introduced in FY12, passed in FY13, and transferred FY12 funds (\$100,000 of school utility funds). If we look back one year, R-11-129 (\$136,000 for fire hydrants) was introduced in FY11, passed in FY12, and transferred FY11 funds. The year before that, R-10-31 (\$144,000 of road salt funds) and R-10-47 (\$9,800 for baseball field renovations) were both passed in FY11 but utilized FY10 funds. In summary, at the beginning of every new fiscal year it is a common occurrence to finalize transactions that utilize prior year fiscal money.

However, if R-12-20 is not passed shortly, once the FY12 accounting is closed, the \$150,000 in FY12 general contingency will lapse to FY12 surplus and no longer be available to fund this land purchase.

The remaining \$500,000 for the land purchase is proposed to come from the Pennichuck Acquisition Fund. The Pennichuck Acquisition Fund was a fund created in FY2011 to pay for the remaining transaction costs and the bond issuance costs incurred by the City to acquire Pennichuck Corporation. This fund was established with guidance from Bond Counsel and was set up to pay for and receive reimbursements of the transaction costs and bond issuance costs associated with the acquisition. This fund received three reimbursement payments from Pennichuck Corporation in March 2012 and April 2012, and the proposed \$500,000 for R-12-20 is out of those payments. The Pennichuck Acquisition Fund is a project fund that does not lapse at the end of fiscal years. It is not a revenue account. There are funds available in that project fund that are no longer needed for that project, so R-12-20 amended proposes transferring a portion of them (\$500,000) and using them for a different capital project, the land purchase. This is the same type of action that occurred in R-12-34, when \$528,000 was transferred from the Pennichuck Acquisition Fund into the Capital Equipment Reserve Fund. If the \$500,000 is not used for this land purchase, the funds will remain in the Pennichuck Acquisition Fund.

With respect to the Capital Improvements Committee's rating of the land purchase, their special meeting on May 1, 2012, was held specifically to consider and rate the proposed building and land acquisitions contemplated by pending R-12-20 (the three parcels on West Hollis Street) and R-12-31 (two parcels at 25 Crown Street). Both of those resolutions indicated the sources of funding for the purchases.



## **Help Prevent Commercialization of West Hollis Street**

### **Petition in support of R-12-20**

**Allowing the City to purchase 3 Parcels near the Landfill Entrance**

<b>Information Provided by:</b>	<b>Mike Tabacsko - Alderman Ward 5</b>	<b>Email: Mtabacsko@comcast.net Phone: 603-880-4666</b>
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#### **Facts:**

- \* City Ownership will prevent commercial uses on this site, and help to preserve the Residential Character of the entire West Hollis Street Corridor**
- \* If we miss this opportunity and do nothing, these parcels will eventually become approved for commercial uses**
- \* Purchase price (\$650,000) is 21.9% below Assessed Value (\$831,900)**
- \* DES has completed testing and provided a CERTIFICATE OF NO FURTHER ACTION**
- \* Immediate Benefits include additional Buffer zone and entry/exit improvements**
- \* Long Term Benefits include preservation of many future options**
- \* There is NO \$15 Million Plan to consolidate public works. (Any such plan would require action by the full Board of Aldermen)**

## Help Prevent Commercialization of West Hollis Street

### Petition in support of R-12-20

**Allowing the City to purchase 3 Parcels near the Landfill Entrance**

#### RESOLUTION

**TRANSFERRING \$650,000 FOR THE PURCHASE OF LAND FOR THE DIVISION OF PUBLIC WORKS AT 836, 844, AND 848 WEST HOLLIS STREET (MAP D, LOTS 84, 85, AND 86) AND AUTHORIZING THE ACQUISITION OF THAT PROPERTY**

Full Name (print)	Address	Signature
Virginia Christiana	Nashua NH 11 Sunrise Trail	Virginia Christiana
Donald Emerson	Gilson Rd	Donald Emerson
Tiffany Dias	11 Cheryl St	Tiffany Dias
Ryan Burke	11 Cheryl St	Ryan Burke
Rosemary Hogan	Hollis 83 Birchwood Dr.	Rosemary Hogan
Chris Martin	Countryside Dr	Chris Martin
Stephen Tambur	17 Terrace St	Stephen Tambur
Kenneth Dunn	26 DELAWARE	Kenneth Dunn
Chris Lyst	1080 W. HOLLIS	Chris Lyst
Riad Belzil	5 POORCHESTER	Riad Belzil
Russ Marcum	RUNKELL'S BR HOLLIS	Russell Marcum
Dennis Rupp	12 SAMPSON NASHUA	Dennis Rupp

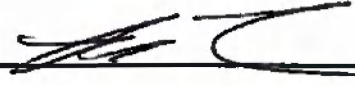

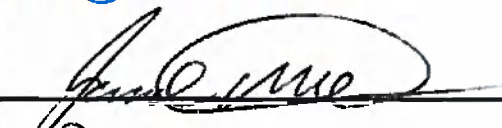
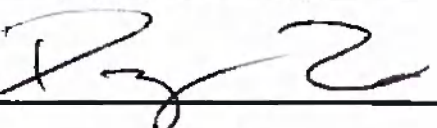
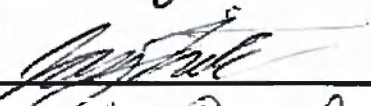
## Help Prevent Commercialization of West Hollis Street

### Petition in support of R-12-20

Allowing the City to purchase 3 Parcels near the Landfill Entrance

#### RESOLUTION

TRANSFERRING \$650,000 FOR THE PURCHASE OF LAND FOR THE DIVISION OF PUBLIC WORKS AT 836, 844, AND 848 WEST HOLLIS STREET (MAP D, LOTS 84, 85, AND 86) AND AUTHORIZING THE ACQUISITION OF THAT PROPERTY

Full Name (print)	Address	Signature
Brian Toomey	124 Beacon St	
BILL TOOMEY	9 PACIFIC BLVD	Bill Toomey
Arthur Brown	103 Gilson Rd	Art Brown
Glenn Fulkerson	4 Providence Ave	Glenn Fulkerson
Isaac Davis	55 Depot Rd	Isaac Davis
Kurt Desrosiers	513 Caldwell Rd	
Jeanne Martin	10 Cranberry Side Dr	
Stacey Kime	28 Longholm Dr.	S. Kime
Doug Lippert	124 Beacon St	
Jay Little	9 Satine Ave	
MARK Crowley	10 ERIC AVE	Mark Crowley
Theognis Kehakis	22 Ash St	Theognis Kehakis

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AND 86) AND AUTHORIZING THE ACQUISITION OF THAT PROPERTY**

Full Name (print)	Address	Signature
Edward	4 Heidi Lane	Ed Heary
STEPHEN MOSEFSKI	7 COUNTRYSIDE DR	Stephen Mosefski
LINDA LABARRE	59 RUNNELLS BR RD	Linda Labarre
John H Snow	5 Shawn	John H Snow
Sue M Snow	5 Shawn	Susan M Snow
Maunna St. Jean	6 Rock Ln Milford	Maunna St. Jean
Roselle Roll RONALD FALLETTO	62 Farview	Roselle Roll
Phillip Hogan	83 BIRCHWOOD DR MILLS N.H.	Phillip R Hogan
Dave Hirko	17 Alder Dr. Nashua, NH.	Dave Hirko
Judy Toomey	9 Percie Blvd	Judy Toomey
RYAN MITCHELL	3 OAK HILL LANE	Ryan Mitchell



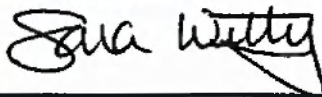
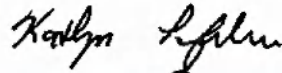

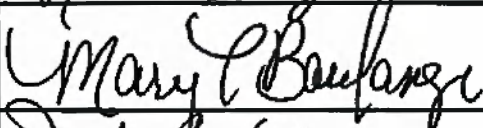


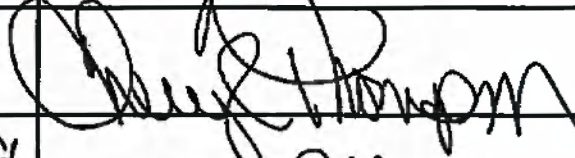
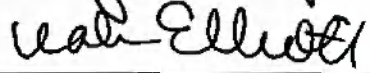


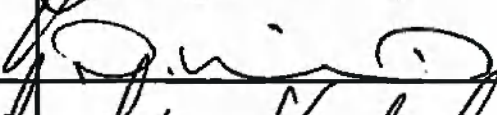
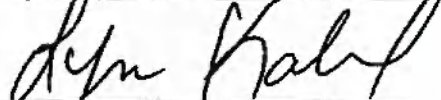
## Help Prevent Commercialization of West Hollis Street

### Petition in support of R-12-20

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Full Name (print)	Address	Signature
Sara Witty	5 Bonny St Nashua NH	
Kathryn Lefebvre	40 Perham St Nashua NH	
Mark Crowley	10 ERIC Ave Nashua	
Mary L Boulanger	747 West Hollis Nashua	
John Baldossavre	8 Laredo Nashua	
Lesley MacMillan	2 Keith St Nashua	
Cheryl Thompson	Nashua	
Leah Elliott	23 Delaware Rd Trestlebrook	
Chris Lamber	22 Arlington St	
John KAL	83 Baltimore Rd	
Dana Mione	2 Erie circle	
Lynn KALIC	23 BALTIMORE Rd	

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Full Name (print)	Address	Signature
Muriel Dora	15000 Rte 101 Nashua NH	Muriel Dora
Geraldine Butler	905 West Hollis Nashua NH	Geraldine Butler
Ken Butler	905 West Hollis Nashua NH	Ken Butler
Jim Varney	27 Grace Dr Nashua NH	Jim Varney
Paul Ledoux	3 Pullman Lane	Paul M. Ledoux
Thomas Downs	23 Parkhurst Nashua NH	Thomas Downs
Daniel Hozew	125 Star Dr	Daniel Hozew
Leo DiGregorio	629 W. Hollis St Nash	Leo DiGregorio
AL MARTIN	22 Westham Dr NASH NH 0306	AL MARTIN
Rachel Bueley	4 Balthasar Road Nashua	Rachel Bueley
Robert Labrie	1 Burlington Nashua	Robert Labrie
Carolyn Martin	52 Tree Hill Brook Dr Nashua NH	Carolyn Martin

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Full Name (print)	Address	Signature
JAMES MERCIER	3 TRENDROSE DR	James P. Mercier
Wayne P. Atkinson	4 CIRCLEFIELD DR	Wayne P. Atkinson
Edie Geroni	10 SPRING CREEK	Edward Geroni
Matt LeBlanc	8 SKYLINE DR	Matt LeBlanc
ELAINE A HAYWARD	5 BONNY ST	Elaine A Hayward
Paul Ooster	41 RIVERSIDE	Paul Ooster
Jennifer Young	8 SKYLINE DR	Jennifer Young
DEBRA LEBLANC	8 SKYLINE DR	Debra LeBlanc
SHERYL DOYLE	3 SETTEMBER WAY	Sheryl Doyle
ANNI MARAITIS	3 WESTHILL DRIVE	Anni Maraitis
SARAH M. BARNES	23 Aster Court	Sarah M. Barnes
Roshm Patel	19 Bonny St	Roshm Patel

James Parker 25 Sunrise James Parker



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Full Name (print)	Address	Signature
Bob S. O'Neil	16 Lansing Dr	Bob S. O'Neil
MARK PETSCHER	S ROCK ISLAND RD	UP PETSCHER
Mike J. Green	West Hollis	Mike J. Green
Nicholas Grant	Leeann St	Nicholas Grant
Kim O'Neill	Yorkway Dr.	Kim O'Neill
Anthony DiFazio	Pinehurst Ave.	ADiFazio
N. Pellella	856 West Hollis	Norman Pellella
James Arsenault	1030 24th Hollis St	James Arsenault
Chris Connor	4 Granwell Ct	Chris Connor
Laurie Hancock	583 W. Hollis St	Laurie Hancock
Dmitry Trikoz	34 Copperfield Dr	Dmitry Trikoz
Don Sciascia	6 Keith St	Don Sciascia



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Full Name (print)	Address	Signature
George Emmons	959 W. Hollis St	<i>George Emmons</i>
DOREEN CARLSON	23 DIONNE ST	<i>Doreen Carlson</i>
Anne Lamarche	8 Farmwood Dr	<i>Anne Lamarche</i>
Crystal Jordan	727 W. Hollis St	<i>Crystal Jordan</i>
John Stevenson	9 Lennie Cir	<i>John Stevenson</i>
Julian Jordan	727 W Hollis st	<i>Julian Jordan</i>
Tim LeBlanc	8 Skyline Dr	<i>Tim LeBlanc</i>
David Demichele	849 W Hollis St	<i>David Demichele</i>
J. Anderson	323 Landwood	<i>Janette Anderson</i>
Tom Hunt	7 Leathers Dr	<i>Tom Hunt</i>
GARY LEVASQUE	59 GILLES ST	<i>Gary Levasque</i>
Roger Sague		


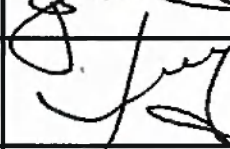


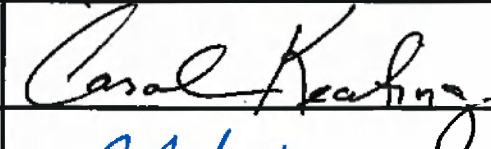

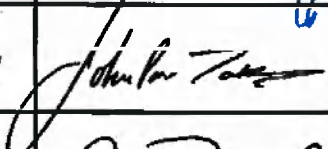
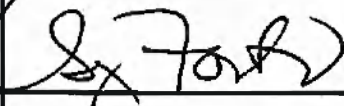
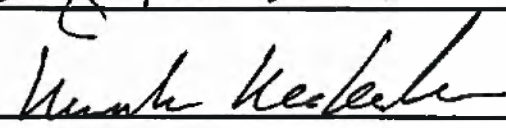
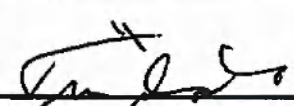
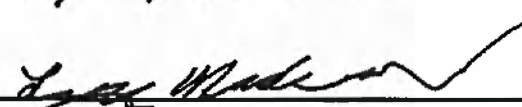

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Full Name (print)	Address	Signature
Jordan Cardinale	2 Erie circle	
Rosivaldo Dias	1 Skyline dr	
Gregory LeBlanc	8 woodcrest Dr	
LARRY RAYMOND	9 CLOVERCREST	
Carol Keating	7 Mizoras Dr.	
Mark Avery	22 Settlement Way Nashua NH	
John Paul Talleo	904 W Hollis St	
Suzanne Fortin	8 Olympia Circle	
Markus McMichen	1 pullman Ln Nashua NH 03061	
Timothy E	4 CEE ANNA	
Zoe + Jimmy Mayer	6 CHERRY ST	
Jeremy Adams	4 Erie circle	

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Full Name (print)	Address	Signature
<i>[Signature]</i>	91 PACIFIC BLVD	<i>[Signature]</i>
Zachary Jensen	40 Foster St.	<i>[Signature]</i>
Michelle Irving	10 ASH ST. (Nashua)	<i>[Signature]</i>
Leah Rose	58 Whitney St	<i>[Signature]</i>
Ruth Andrews	651 W. Hollis	<i>[Signature]</i>
Andrew Lello	3 Commamore Dr	<i>[Signature]</i>
Henry Castonguay	17 Parkhurst	<i>[Signature]</i>
Robyn Sanscartier	11 Keith St	<i>[Signature]</i>
ADAM Young	837 West Hollis	<i>[Signature]</i>
Dick Morales	81 Westborn Dr	<i>[Signature]</i>
Cynthia Dyle	50 Westgate	<i>[Signature]</i>
Susan Hicks	91 Walnut St Nashua	<i>[Signature]</i>

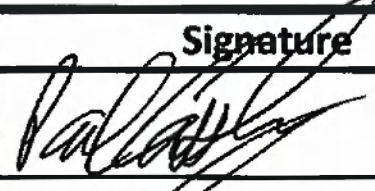


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Full Name (print)	Address	Signature
Paul Cassidy	45 Aster Ct Nashua NH	
Judith A Vowels	31 Hickock Cir. Nashua	Judith A. Vowels
Jeanne Turcotte	West Hill NASHUA NH	
Chris Egan	673 West Hollis Nashua NH	
CAROL RICHARDS	4 BRANDER CT NASHUA, NH	
Brian Ricard	19 Westborn Dr. Nashua, NH	
Kathy Dean	6 Bonnie St Kathy Dean	
PEARL LEARY	32 Chickie St	Quel Leary
Danny J. Smith	5 MANORCREST Drive	Dan St
Chris J mercier	17 Clovercrest Dr	Chris J. Mercier
John Emery	212 BARTON TRAIL NASHUA	J. E.
Jean Osofsky	25 Larkspur Ct Nashua NH 03063	Jean F. Osofsky

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Full Name (print)	Address	Signature
Tracy Mearls	29 Mahogany Dr	Tracy Mearls
NATALIE GENDRON	4 PRIMROSE DR.	Natalie Gendron
Henry Borrazzo	12 Watkinson Trail	Henry Borrazzo
Daniel Keating	658 West Hollis St.	Daniel Keating
Greg Crane	51 Colburn Ave	Greg Crane
Kim Ducharme	23 Silverton	Kim Ducharme
Phyllis Berner	10 Spring Court	Phyllis Berner
Heidi Hefner	18 MARK ST	Heidi Hefner
Stefanie Reis	658 W. Hollis St	S. Reis
S. Reis		
Patrick O'Leary	27 MAHOGANY DR	Patrick O'Leary
DAWN G. MERRILL	723 W. Hollis STREET	Dawn G. Merrill
Kyle W. Wilson	5 MARK ST	Kyle W. Wilson

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Full Name (print)	Address	Signature
Robert McMahon	7 Eucalyptus Nashua, NH 03061	Robert McMahon
LARRY RENCKEN	51 Swiss Hollis	Larry Rencken
Louise Harrama	42 Farmwood Dr Nashua, NH	Louise Harrama
Michelle Serpi	56 Western Field	Michelle Serpi
Steve Noonan	10 Burlington Rd.	Steve Noonan
Miriam Noonan	10 Burlington Rd	Miriam Noonan
Elaine K. James	Hollis, NH 03049 22 Rail Way	Elaine K. James
Todd Szwedzko	291 Shortland Rd Hollis	Todd Szwedzko

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